

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1842 of 2018**

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Poonam Sharma, Wife of Kamlesh Kumar, resident of Mohalla- Prakash Nager, North of Jagdev Nagar, Opposite of Nalanda Britannia Biscuit Factory Prakashnagar, Sabajpura P.O. and P.S.- Phulwari Sharif, District- Patna, Bihar- 801505.

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Director General-cum-Inspector General of Police, Bihar, Old Secretariat Building, Patna.
3. The Inspector General of Police, HQ old Secretariat Building Patna.
4. The I.G. Zonal, Patna.
5. The D.I.G. Central Range, Patna.
6. The SSP, Patna District.
7. The Superintendent of Police West, Patna.
8. Sree Nand Kishor Razak, S/o Late Panchu Razak, Village Mansi P.S.- Mansi, District- Khagaria.
9. SHO of Gardanibagh Police, Patna.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate  
For the Respondent/s : Mr. Irshad, AC to SC-1

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      21-12-2022                      Heard learned counsel for the petitioner and Mr. Irshad, learned AC to SC-1 for the State.

The grievance of the petitioner is that in respect of an occurrence which allegedly took place on 22.05.2018, when he sought to lodge a first information report with the local police station no action was taken thereon. On perusal of the writ application, however, it does not appear that the petitioner has applied for his remedy under Section 156(3). He has moved this



Court directly for lodging of the FIR.

Further it appears that the petitioner had some dispute with private respondent no. 8 in the year 2012 which was amicably settled between both the parties. Earlier the petitioner had moved this Court in connection with those matters in Cr.W.J.C. No. 1214 of 2016.

In the case of **Sakiri Vasu versus State of U.P. and Others** reported in **(2008) 2 SCC 409**, the Hon'ble Supreme Court in paragraphs '24', '25' and '26' has observed as under:-

“**24.** In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) CrPC to order registration of a criminal offence and/or to direct the officer in charge of the police station concerned to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) CrPC, we are of the opinion that they are implied in the above provision.

**25.** We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).



26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?"

In the aforesaid view of the matter, this writ application directly filed for lodging of the FIR cannot be entertained. It is dismissed accordingly.

**(Rajeev Ranjan Prasad, J)**

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